

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 19, 2005
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	3
ATTENDANCE DURING THE MEETING	4
ITEM-300: ROLL CALL.....	4
NON-AGENDA COMMENT	5
COUNCIL COMMENT	10
CITY MANAGER COMMENT.....	10
CITY ATTORNEY COMMENT	10
ITEM-330: Paseo de Mission Hills.....	11
ITEM-331: The Boulevard.....	15
ITEM-332: Bay View Plaza.....	19
ITEM-333: Villa Paraiso.....	24
ITEM-334: Two actions related to a Street and Easement Vacation - Carmel Mountain Road..	28
ITEM-335: Van De Moere Residence – Project No. 31364	30
ITEM-336: Funding for the New Downtown Main Library	33
ITEM-337: Sixth Amendment to Agreement with a Joint Venture between Rob Wellington Quigley Architects Inc. and Tucker Sadler Nobel Castro Architects Inc.; First Amendment to Agreement with Turner Construction Company for Pre- Construction Services; First Amendment to Agreement with WRISC Inc. for	

	Professional Services; A Second Amendment to Agreement with Bechard and Associates for LEEDS Professional Services; All Related to San Diego New Main Library.....	35
ITEM-338:	Extension of the Barrio Logan Area Committee (PAC) and Notice and Conduct the Annual Election of Barrio Logan PAC for 2005	37
ITEM-339:	In the Matter of the Alleged Breach of the Lease Between the Fairbanks Ranch Country Club and the City of San Diego	38
ITEM-S500:	St. Augustine High School Basketball Team Day	39
ITEM-S501:	2005 Winter Storms Disaster Waiver of City Fees.....	40
ITEM-S502:	In the matter of: Accepting the Redevelopment Agency Report to the City Council and the Proposed Redevelopment Plan for the Grantville Redevelopment Project	41
NON-DOCKET ITEMS	42
ADJOURNMENT	42

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:05 a.m.

Council Member Peters acknowledged and welcomed Rancho Penasquitos students representing San Diego County as part of the Pacific Southwest Karate Association in the 2004 Amateur Athletic Union National Championships, stating that all the students are AAU National Karate Champions in their respective divisions and were named to the Junior National Team that competed internationally. He congratulated the students on their great achievement and presented a commendation to all of them.

Mayor Murphy acknowledged and welcomed a group of Public Policy Graduate Students from the University of Iberoamericana in Tijuana, Mexico, who were visiting to better understand the process of governance in the City of San Diego.

The meeting was recessed by Mayor Murphy at 11:28 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:37 a.m. with all Council Members present. Mayor Murphy recessed the meeting at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:10 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 2:14 p.m. to convene the Housing Authority and the Redevelopment Agency thereafter. Mayor Murphy reconvened the regular meeting simultaneously with the Redevelopment Agency at 2:17 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:59 p.m. for the purpose of a break. Mayor Murphy reconvened the regular meeting at 4:15 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:36 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:55 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:56 p.m. to reconvene the Housing Authority and the Redevelopment Agency thereafter. Mayor Murphy reconvened the regular meeting at 5:57 p.m. with all Council Members present. Mayor Murphy reconvened the regular meeting simultaneously with the Redevelopment Agency at 6:29 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 7:21 p.m. for the purpose of a break. Mayor Murphy reconvened the regular meeting at 7:33 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 9:01 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 9:15 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 10:39 p.m. for the purpose of a break.

Mayor Murphy reconvened the meeting at 10:47 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 11:44 p.m. into Closed Session immediately following the regular meeting in the twelfth floor committee room to discuss existing and pending litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Lane (mc/gs)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Lane called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present

- (3) Council Member Atkins-present
- (4) Council Member Young-not present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell encouraging Council to read the Report he had distributed to Council, on defending our tax exempt wages, by employees of the Internal Revenue Service. He informed Council that in the Report it states that one of the perks of the Internal Revenue Services is that they do not pay taxes on wages.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-2:

Comment by Phil Hart regarding the City's finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:32 a.m.)

PUBLIC COMMENT-3:

Comment by Molly Rhodes regarding the Ballpark Hotels and the TOT Guaranty.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:35 a.m.)

PUBLIC COMMENT-4:

Comment by Sandy Summers regarding the subject of “justice.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:38 a.m.)

PUBLIC COMMENT-5:

Comment by Hud Collins requesting that the City Council call for a Constitution/Charter Citywide Convention to address the City’s problems.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:41 a.m.)

PUBLIC COMMENT-6:

Comment by Pam Barratt regarding the subject of homelessness.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:44 a.m.)

PUBLIC COMMENT-7:

Comment by Ron Boshun regarding Council’s actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:47 a.m.)

PUBLIC COMMENT-8:

Comment by James Hartline regarding the City Attorney's intention to investigate the publisher of the Reader Magazine based on complaints he was receiving from members of the San Diego Gay Pride Organizations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:50 a.m.)

PUBLIC COMMENT-9:

Comment by Muhammed Abdullah regarding the September 11 terrorist attack against America, the lawsuit of Stanley Hilton and the "9/11 in Plain Sight" video.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:54 a.m.)

PUBLIC COMMENT-10:

Comment by Milly Ann regarding the problems that have fallen on Mayor Murphy's shoulders.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:57 a.m.)

PUBLIC COMMENT-11:

Comment by David Edick regarding the San Diego Sister Cities Program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:01 a.m.)

PUBLIC COMMENT-12:

Comment by Steven Smith stating that crime is down.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:02 a.m.)

PUBLIC COMMENT-13:

Comment by Jody Costello regarding the District Attorney's request to take over the City's misdemeanor cases.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. – 11:05 a.m.)

PUBLIC COMMENT-14:

Comment by Ralph Johnson thanking Council for passing the living wage ordinance last week and for the compassion, care and heart that was displayed by their action.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. – 11:07 a.m.)

PUBLIC COMMENT-15:

Comment by Daniel Coffey regarding the City Attorney's Interim Report No. 3 and the City's 5-year plan.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:10 a.m.)

PUBLIC COMMENT-16:

Comment by Pastor James Ward requesting Council's assistance and resources to resolve the violence in the Fourth District.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:13 a.m.)

PUBLIC COMMENT-17:

Comment by T. C. Hu regarding the water drainage problem the Via de la Camino Real Road Widening Project will cause for him, and stated that he feels the contribution of land should be shared equally by owners on both sides of the street.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:13 a.m. – 11:15 a.m.)

PUBLIC COMMENT-18:

Comment by Shizhong Vhen requesting that Council adopt a Yantai resolution to stop the torture of Falun Gong practitioners in China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:18 a.m.)

PUBLIC COMMENT-19:

Comment by Ramona Berry regarding the Youth Leadership Mentoring Program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:18 a.m. – 11:22 a.m.)

PUBLIC COMMENT-20:

Comment by Pastor Netreia Carroll requesting Council's assistance in stopping the violence in District Four.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:23 a.m. – 11:25 a.m.)

PUBLIC COMMENT-21:

Comment by Judie Italiano regarding the problems taking place in the City Attorney's office and requested Council's assistance in resolving them.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:25 a.m. – 11:28 a.m.)

COUNCIL COMMENT:

None.

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



ITEM-330: Paseo de Mission Hills.

Matter of the appeals by Mission Hills Heritage and Michael Wells of the decision by the Planning Commission approving an application for Process 4 Vesting Tentative Map (VTM) and a Process 4 Site Development Permit (SDP) for the Paseo de Mission Hills project. The proposed project includes the construction of a 61-unit residential condominium complex with 5,113 square feet of retail space, and a 4,721 square foot retail/office building. The scope of work includes the restoration of two existing buildings with eight affordable residential rental units above office and retail space. The VTM is required for the condominiums. The SDP is required for development within the Mid-City Planned District Ordinance and due to requested deviations to the regulations of the underlying zone (setbacks, height, diagonal plan dimension, and architectural features) and deviations from the Affordable Housing Density Bonus provisions. The proposed project will conform to the Council Policy 600-27(A) criteria for the Affordable/In-Fill Housing Expedite Program. The 1.17-acre project site is located on the north side of the 800 block of W. Washington Street in the MR-1000 and CN-2A zones of Mid-City Communities Planned District within the Uptown Community Planning area and Council District 2.

(See City Manager Report CMR-05-080. MND/MMRP/VTM No. 113679/SDP No. 113680. Uptown Community Plan Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A to deny the appeals and to uphold the decision of the Planning Commission, and grant the permit; adopt the resolution in subitem B; and adopt the resolution in subitem C to grant the map:

Subitem-A: (R-2005-) CONTINUED TO TUESDAY, JULY 19, 2005

Adoption of a Resolution granting or denying the appeals and upholding or overturning the decision of the Planning Commission in approving the project, and granting or denying Site Development Permit No. 113680, with appropriate findings to support Council action.

Subitem-B: (R-2005-) CONTINUED TO TUESDAY, JULY 19, 2005

Adoption of a Resolution certifying that the information contained in Mitigated Negative Declaration No. 40292 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration is hereby approved;

That pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2005-) CONTINUED TO TUESDAY, JULY 19, 2005

Adoption of a Resolution granting or denying Vesting Tentative Map No. 113679, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on January 27, 2005, voted 4-1 to approve staff's recommendation, which includes a condition for the restoration of the two potentially historical existing buildings; was opposition.

Ayes: Ontai, Otsuji, Schultz, Garcia

Nays: Chase

Recusing: Steele

Vacant: Chairperson

The Uptown Planners on October 5, 2004, voted 10-3-1 to recommend approval of the proposed project with conditions.

CITY MANAGER SUPPORTING INFORMATION:

The proposed project site is located on the north side of the 800 Block of West Washington Street, bounded by Goldfinch Street, Falcon Street, and Fort Stockton Drive. The proposed project site is located within the Mid-City Communities Planned District, and is currently zoned MR-1000 and CN-2A. The northeast corner of the project site/block (Lots 17-24), bounded by Fort Stockton Drive and Falcon Street, is zoned MR-1000 (Residential – Multiple Unit; 1 dwelling unit per 1,000 square-feet of lot area). The remaining portion of the site/block (Lots 1–16) is zoned CN-2A (Mixed Use/Residential – Multiple Unit; 1 dwelling unit per 800 square-feet of lot area). The project as zoned, allows for a total of 59 units, however, the proposal includes an affordable housing density bonus request, which would allow up to an additional 25 percent density bonus. The project is only requesting an approximately 17 percent increase in density to allow for the development of ten additional units for a total of 69 units.

The proposed project site is located within the Uptown Community Plan that designates the 0.71 – acre portion of the site for Mixed Use allowing 44-73 dwelling units per acre (dus/acre), and Medium to High Density Residential at 29-44 dus/acre on the 0.46-acre north-eastern portion of the site. According to the Land Use Element of the Community Plan, the proposed project, occupying 1.17-acres, could accommodate between 45 and 72 dwelling units.

The surrounding development consists of a mixture of one- and two-story commercial structures; and two-, three-, and four-story multi-family structures. Currently, the south side of West Washington Street is developed with retail, office, restaurant, and a neighborhood bar. The development on the west side of Goldfinch Street contains two restaurants, retail, and commercial office uses. The development to the north of the project site on Fort Stockton Drive contains two single-family residences that have been converted into retail uses and a three-story structure over parking garage, multi-family complex. The development at the northeast corner of Falcon Street consists of a two-story structure over garage, multi-family complex, and the Mission Hills Commons complex is located directly to the east of the project site.

FISCAL IMPACT:

None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Frazier/Halbert/JAP

LEGAL DESCRIPTION:

The project site is located on the block bounded by Washington Street on the south, Fort Stockton Street on the north, Goldfinch Street on the west, and Falcon Street on the east, in the MR-1000 and CN-2A zones of the Mid-City Planned District Ordinance within the Uptown Community Plan area and is more particularly described as Lots 1, 2, 3, 4, 5, 6, the southerly 10-feet of lot 10, lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 in Block 54 of Arnold & Choate's addition.

Staff: Jeffrey A. Peterson – (619) 446-5237.

FILE LOCATION: LUP – Paseo de Mission Hills, 04/19/05 (65)

COUNCIL ACTION: (Time duration: 7:34 p.m. – 11:17 p.m.
11:28 p.m. – 11:43 p.m.)

Testimony in opposition by Everett Delano, Barry Hager, Ron May, Brian Adler, Kim Adler, Denise Bradshaw, Dolores Ford, Alan Hardtarfer, Betty Hauck, Alan Hazard, Sandy Kirkland, Jane Ligon, Randy McWhorter, James Moore, Tom Mullaney, Janet O'Dea, Pat Olfason, Don Padula, Katheryn Rhodes, Patricia Tomlin, Janet Widmer, Carol Wilson, Anthony Yaksh, and Michael Wells.

Testimony in favor by Bob Lawrence, Mark Steele, Lynne Heidel, Bill Anderson, Ron Bamberger, Peggy Barmeyer, James Brown, Ron Buckley, Gina Champion-Cain, Midge Costanza, Tom Delaney, James Dunford, Randall Ehm, Ian Epley, Chuck Fox, Timothy Holmberg, Reg Kobzi, Michael Larkin, Richard Ledford, Marie Lia, Roby Ogan, Francisco Ojeda, Al Pavich, Bob Morris, Ginny Ollis, Patrick Rhamey, Mike Singleton, Chris Stokes, Carl Strona, and Marc Tarasuck.

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION IN SUBITEM A TO GRANT THE APPEALS AND NOT TO UPHOLD THE DECISION OF THE PLANNING COMMISSION, AND DENY THE PERMIT; NOT TO ADOPT THE RESOLUTION IN SUBITEM B; AND ADOPT THE RESOLUTION IN SUBITEM C TO DENY THE MAP. Second by Mayor Murphy. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-nay, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Inzunza-nay, Mayor Murphy-yea.

MOTION BY YOUNG TO RECONSIDER. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-nay.

Motion by Zucchet to adopt the resolution in subitem A to grant the appeals and not to uphold the decision of the Planning Commission, and deny the permit; not to adopt the resolution in subitem B; and adopt the resolution in subitem C to deny the map. Second by Mayor Murphy. Failed. Nays - 1, 3, 4, 7, 8. Yeas - 2, 5, 6, M. Not present – none.

Motion by Peters to adopt the resolution in subitem A to deny the appeals and to uphold the decision of the Planning Commission, and grant the permit; adopt the resolution in subitem B; and adopt the resolution in subitem C to grant the map. Second by Madaffer. No vote taken.

MOTION BY INZUNZA TO CONTINUE TO TUESDAY, JULY 19, 2005, TO ALLOW FOR FURTHER COUNCIL DISCUSSION. Second by Zucchet. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-331: The Boulevard.

Matter of approving, conditionally approving, modifying, or denying an application for a Vesting Tentative Map, Site Development Permit, Public Right-of-Way Vacation, and Easement Abandonment for the demolition of existing structures and the construction of a seven-story mixed-use development consisting of five-levels of multi-family residential (153 market rate and 27 affordable units) above 2 levels of parking and commercial development. The application includes a request to waive the requirement to underground the existing overhead utilities. In addition, the project proposes the development of up to one and a half levels of underground parking. The development would occur on a 1.54-acre site located on the north side of El Cajon Boulevard (between Florida and Alabama Streets) in the CL-1 and MR800B zones of the Mid-City Communities Planned District, within the Greater North Park Community Planning Area.

(MND Project No. 49662/MMRP/SDP No. 143667/VTM No. 172036/Public R-O-W Vacation No. 143669/Easement Abandonment No. 188003/Project No. 49662. Greater North Park Community Plan Area. District 3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A and C; and adopt the resolution in subitem B to grant the permit:

Subitem-A: (R-2005-992) ADOPTED AS RESOLUTION R-300344

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 49662 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a site development permit, vesting tentative map, public right-of-way dedication, public right-of-way vacation, easement abandonment and encroachment and maintenance removal agreement for the Boulevard project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2005-) GRANTED PERMIT, ADOPTED AS RESOLUTION R-300345

Adoption of a Resolution granting or denying Site Development Permit No. 143667, with appropriate findings to support Council action.

Subitem-C: (R-2005-993) ADOPTED AS RESOLUTION R-300346

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 172036;

That pursuant to California Government Code section 66434(g), an existing 10-foot wide alley, running west to east between Florida Street and Alabama Street in the north portion of the lot, located within the project boundaries as shown in Vesting Tentative Map No. 172036, shall be vacated, contingent upon the recordation of the approved final map;

That pursuant to California Government Code section 66434(g), the 4 foot wide sewer easement on the west side of parcels 445-323-19, 20 & 21, the drain line through parcel 445-323-23, and the unplottable easement for sewer through parcel 445-323-15, located within the project boundaries as shown in Vesting Tentative Map No. 182-37, shall be vacated, contingent upon the recordation of the approved final map for the project;

That the recommendation of the Planning Commission is sustained, and Vesting Tentative Map No. 172036, including the waiver of the requirement to underground existing overhead utilities, Public Right-of-Way Vacation No. 143669, and Easement Abandonment No. 188003 are granted to AMPROP North Park, LLP, Applicant/Subdivider, and Leppert Engineering Corporation, Engineer, subject to the attached conditions which are made a part of this resolution.

OTHER RECOMMENDATIONS:

Planning Commission on March 10, 2005, voted 6-0 to recommend approval; was opposition.

Ayes: Ontai, Garcia, Chase, Schultz, Otsuji, Steele
Not present: Griswold

The Greater North Park Community Planning Committee on January 18, 2005, voted 12-0-1 to approve the Project with one condition which was met by the applicant.

CITY MANAGER SUPPORTING INFORMATION:

The applicant has requested a Site Development Permit, Vesting Tentative Map, Public Right-of-Way Vacation, and an Easement Abandonment to demolish ten existing structures (none found to have historical significance) and construct a seven-story mixed-use building consisting of 173 one- and two-bedroom residential units, seven (7) mixed-use units, two commercial units (totaling 4,292 square feet), and two-levels of above ground parking over one and one-half levels of subterranean parking. The site is currently developed with a church, a strip retail building, office and retail, single-family, and multi-family development. The applicant has requested deviations to the San Diego Municipal Code (SDMC) requirements for height, setbacks, step-back, minimum street yard, and corner visibility area. The Mid-City Communities Planned District Ordinance (MCCPDO) allows projects to deviate from the regulations of the underlying zone, provided that the MCCPDO Site Development Permit findings can be made. Staff believes that the City Council can make the appropriate findings.

The 1.54-acre property is located on the north side of El Cajon Boulevard between Florida Street and Alabama Street, within the Greater North Park Community Planning area and North Park Redevelopment Project Area. The site is located within the Mid-City Communities Planned District and is zoned CL-1 (Commercial Linear) and MR-800B (Mid-City Residential; 1 unit per 600 square-feet). Surrounding land uses include single and multi-family to the north, commercial/retail to the east and south, and a hospital to the west.

WATER QUALITY IMPACT STATEMENT:

During construction, this project will comply with Best Management Practices (BMPs) through preparation of a Storm Water Pollution Prevention Plan (SWPPP) in conjunction with the building plans. The SWPPP will identify all BMPs to be implemented during the construction phase to reduce/eliminate discharges of pollutants into the public drainage system.

The post development Best Management Practices (BMPs) incorporated into the project consists of site design, source control and treatment. The project's post development runoff will be collected by a private drainage system and conveyed to the public drainage system. The post-construction BMPs detailed in the Water Quality Technical Report have been evaluated and accepted by the City Engineer. The property owner(s) will be responsible for the long term maintenance of all private drainage facilities.

FISCAL IMPACT:

All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Ewell/Halbert/DES

LEGAL DESCRIPTION:

The proposed project site is located at 2030 El Cajon Boulevard, between Florida Street and Alabama Street, in the Mid-City Communities Planned District and the Greater North Park Community Planning Area and is more particularly described as APNs: 445-323-15, 445-323-19, 445-323-20, 445-323-21, 445-323-23, 445-323-33, 445-323-34, 445-323-35.

Staff: Daniel Stricker – (619) 446-5251.

FILE LOCATION: LUP - The Boulevard, 04/19/05 (65)

COUNCIL ACTION: (Time duration: 4:16 p.m. – 4:40 p.m.)

Testimony in opposition by Ghani Kothawala.

Testimony in favor by Steve Quinn, Sherm Harmer, and Eric Luna.

MOTION BY ATKINS TO ADOPT THE RESOLUTION IN SUBITEM A WHICH INCLUDES CERTIFICATION OF THE MITIGATED NEGATIVE DECLARATION, ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM; ADOPT THE RESOLUTION IN SUBITEM B TO APPROVE THE SITE DEVELOPMENT PERMIT; AND ADOPT THE RESOLUTION IN SUBITEM C TO APPROVE THE VESTING TENTATIVE MAP, APPROVE THE PUBLIC RIGHT-OF-WAY VACATION, APPROVE THE EASEMENT ABANDONMENTS AS RECOMMENDED AND OUTLINED IN THE CITY MANAGER’S REPORT AND STAFF’S RECOMMENDATION. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-332: Bay View Plaza.

Matter of approving, conditionally approving, modifying or denying an application for the phased redevelopment of an existing retail center located on an approximate 5.31-acre (231,304 sq. ft.) site, to include approximately 88,270 sq. ft. consisting of a grocery store, two- and three-story retail shops, restaurants

(including drive-thru) and office space. An existing two-story motel located on a southeasterly portion of the site will remain. The property is addressed as 2575 Clairemont Drive, located east of Interstate 5 and Morena Blvd., south of Clairemont Drive, west of Denver Street and north of Ingulf Street, within the CC-1-3 (Commercial-Community) Zone, Community Plan Implementation "B," Transit and Clairemont Mesa 30-foot Height Limitation Overlay Zones.

(Revised Final MND No. 5540/MMRP/TM No. 179620/PDP No. 179619/SDP No. 9100/Project No. 5540. Clairemont Mesa Community Plan Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A and B; and adopt the resolution in subitem C to grant the permit:

Subitem-A: (R-2005-1024) ADOPTED AS RESOLUTION R-300347

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 5540 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of tentative map, planned development agreement and site development agreement for Bay View Plaza Project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2005-1034) ADOPTED AS AMENDED AS RESOLUTION R-300348

Adoption of a Resolution certifying findings with respect to Tentative Map No. 179620, with appropriate findings to support Council action;

That pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No. 179620, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project;

That said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company;

That said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer;

That pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 179620, shall be modified and vacated, contingent upon the recordation of the approved final map for the project;

That pursuant to California Government Code section 66445(j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain public service easements, located within the project boundaries as shown in Tentative Map No. 179620, shall be vacated, contingent upon the recordation of the approved parcel map for the project;

That pursuant to California Government Code section 66445(j), the following public service easements, located within the project boundaries as shown in Tentative Map No. 179620, shall be vacated, contingent upon the recordation of the approved final map for the project;

That, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 179620, is hereby granted to Burgener-Clark LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider, subject to conditions.

Subitem-C: (R-2005-) GRANTED PERMITS, ADOPTED AS RESOLUTION
R-300349

Adoption of a Resolution granting or denying Planned Development Permit No. 179619/Site Development Permit No. 9100, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on January 27, 2005, recommended approval of the project as recommended by staff, by a vote of 6-0; was opposition.

Ayes: Otsuji, Garcia, Schultz, Chase, Ontai, Steele
Vacant: Chairperson

The Clairemont Mesa Community Planning Group, on April 20, 2004, voted 10-2-0 to recommend approval of the application as presented, without conditions. The Group encouraged the Applicant to enhance the degree of building articulation along Ingulf Street during further project design. Subsequent design revisions were made by the Applicant to enhance the building façade along Ingulf Street.

CITY MANAGER SUPPORTING INFORMATION:

This is a request for: 1) A Tentative Map No. 179620, to reconfigure an existing 5.31-acre site, abandon and modify existing easements, vacate portions of public rights-of-way, and waive the requirement for the undergrounding of existing overhead utilities; 2) A Planned Development Permit No. 179619, to allow deviations to setback requirements of Subdivision Map No. 3780, and signage requirements of the Land Development Code; and 3) A Site Development Permit No. 9100 to allow development which requests an exception to exceed the maximum 30-foot height allowed by the Clairemont Mesa Height Limit Overlay Zone, and which is also located within the Community Plan Implementation Overlay Zone (Type "B"). The project includes the phased demolition of existing structures and redevelopment of the site as follows:

Phase One - demolition of the existing shopping center, drive-thru restaurant and surface parking lot; grading and construction activities to accommodate development of a retail center consisting of five, single- and multi-level structures/buildings totaling approximately 256,400 sq. ft. of area, and provision of off-street parking within a multi-level parking structure.

Phase Two - demolition of an existing oil-lube facility; grading and construction activities to accommodate a two-level 8,800 sq. ft. office and/or retail commercial building; and expansion of the upper level parking deck and/or lower level parking garage to accommodate additional required off-street parking spaces, for a total of 496 off-street parking spaces.

FISCAL IMPACT:

All staff costs associated with processing of this project are recovered from a separate deposit provided and maintained by the Applicant.

Frazier/Halbert/WCT

LEGAL DESCRIPTION:

The project site is zoned CC-1-3 and is located within the Clairemont Mesa Community Plan area, Community Plan Implementation Overlay Zone, Clairemont Mesa Height Limitation Zone (30 feet) and is more particularly described as Lot 1 and portions of Lot 2 of West Clairemont Plaza, Map No. 3780.

Staff: Bill Tripp – (619) 446-5273.

FILE LOCATION: LUP – Bay View Plaza, 04/19/05 (65)

COUNCIL ACTION: (Time duration: 5:57 p.m. – 6:28 p.m.)

Testimony in opposition by Billy Paul.

Testimony in favor by Christopher Neils, Craig Clark, and Dave Potter.

MOTION BY FRYE TO ADOPT THE RESOLUTION IN SUBITEM A TO APPROVE THE CERTIFICATION OF THE MITIGATED NEGATIVE DECLARATION AND THE ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM; ADOPT THE RESOLUTION IN SUBITEM B TO APPROVE THE TENTATIVE MAP NO. 179620 WITH THE REVISION TO CONDITION “9” TO READ, “THE SUBDIVIDER SHALL UNDERGROUND EXISTING AND/OR PROPOSED UTILITY SYSTEMS AND SERVICE FACILITIES IN ACCORDANCE WITH THE SAN DIEGO MUNICIPAL CODE, OR ENTER INTO A COST-SHARE UNDERGROUNDING AGREEMENT WITH THE CITY TO THE SATISFACTION

OF THE CITY ENGINEER AND CITY ATTORNEY.”; AND ADOPT THE RESOLUTION IN SUBITEM C TO APPROVE SITE DEVELOPMENT PERMIT NO. 9100 AND PLANNED DEVELOPMENT PERMIT NO. 179619. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-333: Villa Paraiso.

Matter of approving, conditionally approving, modifying or denying Progress Guide and General Plan Amendment, a Rezone from AR-1-1 (agricultural) to CO-1-1 (commercial office) and OC-1-1 (Open Space-Conservation) and a Planned Development Permit and Site Development Permit to further develop and construct two one-story buildings; one to be a 9,450 square foot office building and the second to be a 1,130 storage building; parking; landscaping and improvements in the public right-of-way at a 2.25 acre site known as the Villa Paraiso Project located at 3840 Via de la Valle in the Progress Guide and General Plan Area.

(District 1.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in subitem A; adopt the resolutions in subitems B and C; adopt the resolution in subitem D to grant the permits:

Subitem-A: (O-2005-113) INTRODUCED, TO BE ADOPTED ON TUESDAY,
MAY 3, 2005

Introduction of an Ordinance changing 2.25 acres located at 3840 Via de la Valle, within the Planned Urbanizing area, in the City of San Diego, California, from the agricultural residential zone (AR-1-1 Zone) (previously referred to as the A-1-5 or A-1-10 zones) into the commercial office zone (CO-1-1 Zone) and the open space conservation zone (OC-1-1), as defined by San Diego Municipal Code Section 131.0504, and 131.0203; and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-B: (R-2005-994) ADOPTED AS RESOLUTION R-300350

Adoption of a Resolution certifying that Negative Declaration LDR No. 3637; on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a General Plan amendment, rezone, planned development permit and site development permit for the Villa Paraiso Project;

That the Council finds, based upon the Initial Study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and therefore the Negative Declaration is approved;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2005-995) ADOPTED AS RESOLUTION R-300351

Adoption of a Resolution amending the Progress Guide and General Plan, a copy of which is on file in the office of the City Clerk.

Subitem-D: (R-2005-) GRANTED PERMITS, ADOPTED AS RESOLUTION
R-300352

Adoption of a Resolution granting or denying Planned Development Permit No. 7081 and Site Development Permit No. 7082, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on February 24, 2005, voted 4-1 to approve; no opposition.

Ayes: Steele, Garcia, Schultz, Ontai

Nays: Chase

Recusing: Otsuji

Not present: Griswold

There is no officially recognized community planning group for the Planned Urbanizing Area.

CITY MANAGER SUPPORTING INFORMATION:

The Planning Commission initiated a General Plan Amendment on November 15, 2001, to allow staff to analyze the proposed plan amendment. The project proposes a Progress Guide and General Plan Amendment, a Rezone from the existing AR-1-1 to the proposed CO-1-1 and OC-1-1, a Planned Development Permit and Site Development Permit to further develop the site with two one-story buildings.

One to be a 9,450 square foot office building and the second to be a 1,130 storage building also with parking, landscaping and improvements in the public right-of-way at the 2.25 acre site located at 3840 Via de la Valle in the Planned Urbanizing area. The Planned Development Permit is required to allow a deviation from Land Development Code 131.0550. Section 131.0550 requires a pedestrian path from each adjacent street. A deviation is sought to allow only one pedestrian path from Via de la Valle. Providing a pedestrian path from El Camino Real would require impacts to the wetlands present in this area. A Site Development Permit is required due to the presence of sensitive habitat though no impacts are proposed or would be allowed by the approval of the project.

The project is classified as a priority project as defined by the City Storm Water Standards. The project is required to comply with the State Water Resources Control Board Order No. 92-08-DWQ (NPDES General Permit No. CAS0000002).

The Villa Paraiso project is estimated to generate 95 average daily trips as a single-tenant office use and 284 average daily trips as a multi-tenant office use. Via de la Valle along the project's frontage is a two lane collector with a center turn lane and operates at unacceptable level of service "F". Via de la Valle is planned to be widened to a four lane major street which would improve the level of service to "C" or better. Prior to the widening of Via de la Valle, the project's occupancy is conditioned to minimize any traffic impacts to a level less than significant. The project is also conditioned to be responsible for the cost of the frontage improvements.

There is no officially recognized community planning group for the Planned Urbanizing area. For information purposes, plans for the project were forwarded to the Carmel Valley Community Planning Board. The board voted, on February 8, 2005, unanimously to approve the proposed actions with conditions. See the Discussion section of the Planning Commission report PC-05-054 for a full discussion.

The Planning Commission voted 4:1 on February 24, 2005, to recommend staff's recommendation. The Commission requested lighting not impact the sensitive wetland area within the site. Condition #46 of the draft permit has been revised to reflect this recommendation.

City staff recommends the City Council certify the Negative Declaration LDR No. 3637; Adopt Rezone No. 7083; and Approve the Progress Guide and Plan Amendment No. 7084; Planned Development Permit No. 7082; and Site Development Permit No. 7081.

FISCAL IMPACT:

No cost to the City. All costs are recovered through a deposit account funded by the applicant.

Frazier/Halbert/JSF

LEGAL DESCRIPTION:

The project site is legally described as a Portion of the Northwest Quarter of the Southeast Quarter of Section Six, Township 14 South, Range 3 West, San Bernardino Meridian in the County of San Diego, State of California, according to Official Plat thereof, also known as Assessors Parcel Number 302-090-28-00.

Staff: John S. Fisher - (619) 446-5231

FILE LOCATION: LUP – Villa Paraiso, 04/19/05 (65)

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:11 p.m.)

MOTION BY PETERS TO INTRODUCE THE ORDINANCE IN SUBITEM A; ADOPT THE RESOLUTIONS IN SUBITEMS B AND C; ADOPT THE RESOLUTION IN SUBITEM D TO GRANT THE PERMITS. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-334: Two actions related to a Street and Easement Vacation - Carmel Mountain Road.

(Carmel Valley Community Plan Area. District 1.)

(Continued from the meeting of April 5, 2005, Item 337, at the City Manager's request, due to noticing problems.)

NOTE: Hearing open. No testimony taken on 4/5/2005.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-666) ADOPTED AS RESOLUTION R-300353

Vacating a portion of Carmel Mountain Road.

Subitem-B: (R-2005-668) ADOPTED AS RESOLUTION R-300354

Vacating the drainage easement located within the Northeast quarter, Northwest quarter, Southwest quarter, Southeast quarter of Section 29, Township 14 South, Range 3 West.

CITY MANAGER SUPPORTING INFORMATION:

The portions of Carmel Mountain Road right-of-way proposed to be vacated are excess side strips originally intended for an additional traffic lane that would be used for a right turn pocket and for a transition in street width. The drainage easement vacation is part of a related revision of a drainage system.

Currently, Carmel Mountain Road at this location is 114 feet wide. The street that required the right turn pocket was eliminated from the final design of Carmel Mountain Road. Eliminating the need for the additional lane reduces the required street width. In addition, a change in the street design shortens the distance of a transition in width of right-of-way. The extra right-of-way included in the transition in width is not within the portion of street proposed to be vacated. The design changes have been approved and the street is in construction. A reduced street width of 98 feet is needed after these design changes and will be the street width upon vacation of the excess side strips.

On September 14, 2004, the Carmel Valley Community Planning Board unanimously recommended approval of the street and easement vacation as long as the revised drainage system does not disturb environmentally sensitive areas. The revised storm drain system is in the same area as was originally approved and therefore will not disturb any areas that were not previously approved for disturbance. The conditions of approval of the drainage construction requires restoration of any sensitive areas to natural vegetation. A new drainage easement will be dedicated in the location of the revised drainage system.

The street and drain construction are separate actions that have their own approvals not directly related to this vacation request. Upon the construction of the street and drainage system, vacation of the excess side strips of Carmel Mountain Road and the drainage easement vacation are clean up items to remove the unneeded right of way and easement.

FINDINGS: Staff review has indicated that the right-of-way may be vacated and that the four required findings for vacation can be made.

1. That there is no prospective use for the easement or right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated – The right-of-way side strips are not needed for the street design. The revised drainage system is not located in the present drainage easement.
2. That the public will benefit from the action through improved utilization of land made possible by the street vacation – The property owners can utilize the vacated area. The City of San Diego will no longer be responsible for the maintenance of the excess street width and can use the savings for other street improvements and maintenance.
3. That the vacation or abandonment is not inconsistent with the General Plan, an approved Community Plan, or the Local Coastal Program. – The Carmel Valley Community Planning Board's concerns were addressed in the approved plans for this area.
4. That the facility for which the right-of-way as originally acquired will not be detrimentally affected by the street vacation – The reduced width of the street design meets the current design requirements. A new drainage easement will be placed over the revised drainage system.

FISCAL IMPACT:

None. All costs are paid by the applicant.

DEVELOPMENT SERVICES DEPARTMENT RECOMMENDATION:

Approval of this request.

Loveland/Broughton/AKW

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

Staff: Allan Wake - (619) 446-5309

FILE LOCATION: STRT – J-2970 (39)

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:12 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



[ITEM-335:](#) Van De Moere Residence – Project No. 31364.

Matter of approving, conditionally approving, modifying or denying a request for a Coastal and Planned Development Permit, Easement Abandonment and Lot Line Adjustment Parcel Map to abandon an open space easement over a 971 square-foot portion of a lot and adjust the lot line between two adjoining parcels for the owner of the lot at 6876 Avenida Andorra to maintain existing residential improvements, within the boundaries of existing Planned Residential Development No. 11, the RS-1-2 zone and within the boundaries of the La Jolla Community Plan.

(La Jolla Community Plan Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A and B; and adopt the resolution in subitem C to grant the permits:

Subitem-A: (R-2005-1000) ADOPTED AS RESOLUTION R-300355

Adoption of a Resolution ordering vacated a portion of the open space easement located within Parcel 3, Parcel Map No. 17214, as more particularly shown on Exhibit A, on file in the Office of the City Clerk;

That the City Clerk shall then cause a certified copy of this resolution, which Exhibit A, attested by him, under seal, to be recorded in the office of the County Recorder.

Subitem-B: (R-2005-1053) ADOPTED AS RESOLUTION R-300356

Adoption of a Resolution adopting findings with respect to Lot Line Adjustment Map No. 85145;

That, based on the Findings hereinbefore adopted by the City Council, Lot Line Adjustment Map No. 85145, is hereby granted to Ralph E. and Carol Van De Moere, Applicant/Subdivider, subject to conditions.

Subitem-C: (R-2005-) GRANTED PERMITS, ADOPTED AS RESOLUTION R-300357

Adoption of a Resolution granting or denying Coastal Development Permit No. 85142 and Planned Development Permit No. 85143, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on January 27, 2005, voted 5-1 to approve; no opposition.

Ayes: Ontai, Steele, Schultz, Garcia, Otsuji
Nays: Chase

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a Portion of Planned Residential Development Permit No. 11, project required open space easement located to the rear of 6876 Avenida Andorra within Parcel 3, Parcel Map No. 17214 in the RS-1-2 zone in the La Jolla Community Plan area

within Council District 1. The portion being requested for abandonment is not City-wide open space and the total area is 970.8 square-feet of manufactured and landscaped slope. The applicant requests the abandonment to maintain single-family residential accessory uses encroaching into the open space area.

FINDINGS: Staff review has indicated the open space easement may be summarily vacated. The 4 “findings” can be made.

1. Either that there is no prospective use for the open space easement, for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.
2. That the public will benefit from the action through improved utilization of the land made possible by the open space easement abandonment – A legal situation will be resolved, and minimum open space requirements be maintained.
3. That the vacation is not inconsistent with the General Plan, Community Plan or Local Coastal Program – The portion of open space easement being abandoned is “project” open space and the La Jolla Community Planning Association recommends approval of the request.
4. That the facility for which the open space easement was originally designated will not be detrimentally affected by the street abandonment – This open space area is excess to the minimum required project open space required.

Community Planning Group Recommendation: On October 7, 2004, the La Jolla Community Planning Association voted 14-0-2 to approve the open space easement abandonment.

Manager’s Recommendation: Approve the four requested actions in support of the Open Space Easement Abandonment, Project No. 31364.

FISCAL IMPACT:

None. All costs have been paid for by the applicant.

TRAFFIC IMPACT:

The proposed abandonment has no impact to the adjacent public streets.

ENVIRONMENTAL IMPACT:

This activity is Exempt under Section 15303 of the State CEQA Guidelines.

Frazier/Halbert/BK

Staff: Robert Korch - (619) 446-5229.

FILE LOCATION: LUP – Van De Moere Residence, 04/19/05 (65)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

MOTION BY PETERS TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B;
ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE PERMITS. Second by
Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-
yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



[ITEM-336:](#) Funding for the New Downtown Main Library.

(See Centre City Development Corporation Report CCDC-05-17/CCDC-05-07.
East Village Redevelopment District of the Expansion Sub Area of the Centre
City Redevelopment Project. District 2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1006) ADOPTED AS RESOLUTION R-300358

Finding and determining that the foregoing recitals are true and correct;

Declaring based on substantial evidence in the record, including, without
limitation, the information contained in the Report, the City Council hereby finds
and determines that:

- a. The Library is of benefit to the Project or the immediate neighborhood in which the Library is located;
- b. No other reasonable means of financing the Library are available to the City; and
- c. The payment of funds by the Agency for the costs related to the Library will assist in the elimination of one more blighting conditions within the Project and is consistent with the Project's Five-Year Implementation Plan;

Consenting to the Agency assisting in the funding of the construction of the Library;

Authorizing the City Manager to take any action and execute any and all documents and agreements necessary to implement this Resolution.

NOTE: See the Redevelopment Agency Agenda of April 19, 2005, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:40 a.m. – 11:59 a.m.;
2:17 p.m. – 3:59 p.m.)

Testimony in favor by Bryanna Buenrostro, Jessica Kirteck, Leonardo Baltazaz, Barbara Warden, Erik Judson, Judy McCarty, Matthew Hervey, Carolyn Winer and Judith Harris.

Mayor Murphy recessed the meeting to reconvene at 2:00 p.m.

Testimony in opposition by Tim Holmberg, Robert Magness, Mel Shapiro, and Edward Teyssler.

Testimony in favor by Steve Burton, Paul Chacon, Howard Blackson, Gary Smith, Amy Hale-Janeke, Mel Katz, Larry Marshall, Cecily McEuen, Joy Sunyata, Alberta Waggoner, and Les Williamson.

MOTION BY MADAFFER TO ADOPT ITEMS 336 AND 337. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-337: Sixth Amendment to Agreement with a Joint Venture between Rob Wellington Quigley Architects Inc. and Tucker Sadler Nobel Castro Architects Inc.; First Amendment to Agreement with Turner Construction Company for Pre-Construction Services; First Amendment to Agreement with WRISC Inc. for Professional Services; A Second Amendment to Agreement with Bechard and Associates for LEEDS Professional Services; All Related to San Diego New Main Library.

(See City Manager Report CMR-05-092. Centre City Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1051) ADOPTED AS RESOLUTION R-300359

Authorizing the City Manager to execute a Sixth Amendment to the Agreement with a Joint Venture between Rob Wellington Quigley Architects, Inc., and Tucker Sadler Nobel Castro Architects, Inc. for the design of CIP-35-082.0, San Diego New Main Library, to increase the contract by \$2,085,500 under said conditions set forth in the Agreement; together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to execute a First Amendment to Agreement with Turner Construction Company for Pre-Construction Services related to the design of CIP-35-082.0, San Diego Main Library, to increase the contract by \$444,640, under said conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to execute a First Amendment to Agreement with WRISC, Inc. for Professional Services related to the insurance program for CIP-35-082.0, San Diego Main Library to increase the contract amount by \$66,338, under said conditions set forth in the Agreement, together with any

reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to execute a Second Amendment to Agreement with Bechard and Associates for LEEDS related Professional Services necessary for the design of CIP-35-082.0, San Diego Main Library to increase the contract by \$166,320, under said conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Declaring the expenditure of an amount not to exceed \$2,762,798 of Agency tax increment has been authorized by the Redevelopment Agency from Fund No. 98808, San Diego Downtown Main Library fund, for the purpose of executing these agreements;

Declaring the Redevelopment Agency has authorized the expenditure of an additional \$3,737,202 for Project related expenses for a total of \$6,500,000 of Agency tax increment, Fund No. 98808, San Diego Downtown Main Library;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess funds, if any, to the appropriate reserves.

Aud. Cert. 2500889.

Staff: Darren Greenhalgh – (619) 533-3104
Susan Y. Cola – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:40 a.m. – 11:59 a.m.
2:17 p.m. – 3:59 p.m.)

MOTION BY MADAFFER TO ADOPT ITEMS 336 AND 337. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-338: Extension of the Barrio Logan Area Committee (PAC) and Notice and Conduct the Annual Election of Barrio Logan PAC for 2005.

(Barrio Logan Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1035) ADOPTED AS RESOLUTION R-300360

Extending the Barrio Logan PAC for one-year beginning May 18, 2005;

Directing the staff of the Redevelopment Agency of the City of San Diego to notice and conduct the Barrio Logan PAC Elections in 2004.

CITY MANAGER SUPPORTING INFORMATION:

California Community Redevelopment Law, California Health and Safety Code Section 33385, requires the legislative body of a city to call upon residents and existing community organizations in a redevelopment project area to form a Project Area Committee (PAC) if there is a substantial number of low or moderate income residents within the project area, and the redevelopment plan contains authority for the Redevelopment Agency to acquire property by eminent domain, or the redevelopment plan contains one or more public projects that will displace a substantial number of low/moderate income residents. Each PAC serves as an advisory body to the Redevelopment Agency on policy matters affecting the residents of the project area. The Agency is required to consult with the PAC for at least three years after the redevelopment plan is adopted, subject to one-year extensions by the legislative body.

Each PAC is elected and conducts its business in accordance with its specific PAC Formation Procedures (Procedures) that were adopted individually by the City Council. The Procedures address the purpose and authority of the PAC, define the PAC's composition and membership, establish eligibility requirements for the term of membership, set procedures for conducting elections, and provide the general guidelines for the PAC administration.

The City Council on December 8, 2003, authorized the City Manager to proceed with amending the Procedures for the Redevelopment Agency administered Barrio Logan PAC. Agency staff was directed to seek annual authorization from the Council to extend the PAC and to notice and conduct PAC elections.

In accordance with the Barrio Logan PAC Procedures, Agency staff is requesting authorization to 1) extend the Barrio Logan PAC for one year; and 2) notice and conduct the annual Barrio Logan PAC election.

Frazier/Cunningham/RGG

Staff: Rudy Gonzalez – (619) 533-4254
Rachel H. Witt – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:14 p.m.)

MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-339: In the Matter of the Alleged Breach of the Lease Between the Fairbanks Ranch Country Club and the City of San Diego.

(See City Manager Report CMR-05-093 and memorandum from City Attorney Aguirre dated 4/5/2005.)

CITY MANAGER’S RECOMMENDATION:

City Manager’s staff recommends sending a Notice of Default to the Fairbanks Ranch Country Club.

(R-2005-1107) ADOPTED AS RESOLUTION R-300361

FILE LOCATION: LEAS – Fairbanks Ranch Country Club

COUNCIL ACTION: (Time duration: 4:40 p.m. – 5:35 p.m.)

A RESOLUTION WAS ADOPTED TO REFLECT THE FOLLOWING MOTION BY COUNCIL MEMBER ATKINS:

1) COUNCIL HEREBY DETERMINES AND DECLARES FAIRBANKS RANCH COUNTRY CLUB TO BE IN VIOLATION OF THE NON-DISCRIMINATION CLAUSE OF THE LEASE BY ITS ILLEGAL SEX DISCRIMINATION AS DESCRIBED IN THE MEMORANDUM OF LAW AND IS THUS FOUND TO BE IN DEFAULT OF ITS LEASE WITH THE CITY OF SAN DIEGO;

2) COUNCIL HEREBY DETERMINES AND DECLARES THAT THE FAIRBANKS RANCH COUNTRY CLUB, BY WAY OF THE AFOREMENTIONED ILLEGAL SEX DISCRIMINATION IT PRACTICES ON ITS LEASED PREMISES, IS FOUND TO HAVE CAUSED A VIOLATION OF COUNCIL POLICY 700-12, WHICH FORBIDS LESSEES FROM SEX DISCRIMINATION ON CITY-OWNED LAND LEASED TO THEM;

3) COUNCIL HEREBY DIRECTS THE DIRECTOR OF THE REAL ESTATE ASSETS DEPARTMENT TO DELIVER TO FAIRBANKS RANCH COUNTRY CLUB NO LATER THAN THE CLOSE OF BUSINESS ON FRIDAY, APRIL 22, 2005, A WRITTEN NOTICE OF DEFAULT IN ACCORDANCE WITH THE PROVISIONS OF SECTION IV.C (9) (A) OF THE LEASE; AND

4) COUNCIL HEREBY AUTHORIZES THE REAL ESTATE ASSETS DEPARTMENT TO INITIATE AND PROSECUTE TO FINAL JUDGMENT ANY LITIGATION NECESSARY TO ENFORCE THE NON-DISCRIMINATION CLAUSE AND/OR ANY OTHER CLAUSE OF WHICH THE REAL ESTATE ASSETS DEPARTMENT AND/OR THE OFFICE OF THE CITY ATTORNEY DULY MAY FIND THE FAIRBANKS RANCH COUNTRY CLUB IN VIOLATION.

Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



[ITEM-S500:](#) St. Augustine High School Basketball Team Day.

COUNCILMEMBER INZUNZA'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1072) ADOPTED AS RESOLUTION R-300363

Recognizing the tremendous accomplishments of the 2005 St. Augustine High School basketball team.

Proclaiming April 19, 2005, to be “St. Augustine High School Basketball Team Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:18 a.m.)

MOTION BY INZUNZA TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-S501: 2005 Winter Storms Disaster Waiver of City Fees.

(See City Manager Report CMR-05-096.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-951 Cor. Copy) ADOPTED AS RESOLUTION R-300362

Authorizing the waiver of building permit fees relating to building structures damaged by the winter 2005 rainstorms, for waiver applications filed on or before October 15, 2005;

Waiving the waste disposal fees at the Miramar Landfill for flood related debris generated within the City of San Diego from properties destroyed or damaged by the winter 2005 rainstorms, for waiver applications filed on or before October 15, 2005;

Authorizing the City Auditor and Comptroller to reimburse the Development Services and Environmental Services Enterprise Funds for fees waived in an amount not to exceed \$205,000 from the General Fund.

Aud. Cert. 2500899.

Staff: Alex Bragado – (619) 446-5265
John C. Hemmerling – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:18 p.m. – 11:27 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-nay, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-S502: In the matter of: Accepting the Redevelopment Agency Report to the City Council and the Proposed Redevelopment Plan for the Grantville Redevelopment Project;

HEARING HELD, RECEIVED REPORT; CONSIDERATION OF THE
ADOPTION OF THE REDEVELOPMENT PLAN TO BE HEARD ON
TUESDAY, MAY 3, 2005

Hold a joint public hearing to take testimony on the proposed adoption of the Grantville Redevelopment Plan;

Adjourn the Joint Council meeting until May 3, 2005.

(See Redevelopment Agency Report RA-05-08/CMR-05-076; memorandum from Hank Cunningham dated 4/12/2005; and Redevelopment Agency Report to the City Council dated March 18, 2005. Navajo, Tierrasanta, and College Community Areas. District 7.)

NOTE: See the Redevelopment Agency Agenda of April 19, 2005, for a companion item.

Staff: Tracy Reed – (619) 533-7519
Rachel H. Witt – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:29 p.m. – 7:20 p.m.)

Testimony in opposition by Holly Simonette, Don Strong, Joel Stilwager, Sam Patterson, Jim Peugh, Charles Little, Ray Behlman, and Ron Boshun.

Testimony in favor by Mark Kelton and Dexter Chu.

MOTION BY MADAFFER TO CLOSE THE PUBLIC HEARING, RECEIVE THE REPORT; AND CONTINUE THE JOINT PUBLIC HEARING FOR CONSIDERATION OF THE ADOPTION OF THE REDEVELOPMENT PLAN TO TUESDAY, MAY 3, 2005. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 11:44 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:44 p.m.)